

Introduced by

**NORTH DAKOTA CENTURY CODE CHAPTER 15.1-29 -
PAYMENT OF TUITION**

Chapter 15.1-29 of the North Dakota Century Code is created and enacted as follows:

15.1-29-01. Education of students in bordering states - Payment of tuition.

1. Students may attend a school in a bordering state in accordance with section 15.1-29-02 under the following circumstances:

a. A student who lives within forty miles [64.37 kilometers] of another state or in a county bordering on another state may, with the approval of the school board, attend a public school or institution in a bordering state.

b. A student who has attended a school district in a bordering state since, and including, the 1990-91 school year must be permitted to continue attending school in the district in the bordering state.

c. A student whose sibling attended an out-of-state school during or before the 1990-91 school year must be permitted to attend school in the district the sibling attended in the bordering state.

2. If the school board of the district in which the student resides denies a request for a student's attendance in and payment of tuition to another state, the student's parent may appeal the decision to the three-member committee referenced in section 15.1-29-06.

a. If the three-member committee determines that the student meets the terms of subdivision b or c of subsection 1, the student may attend school in the bordering state and the board of the student's school district of residence shall pay the tuition.

b. If the three-member committee determines the student falls within the terms of subdivision a of subsection 1, then the three-member committee shall make its decision using the criteria specified in section 15.1-29-06.

- 1 c. If the student is a kindergarten student, the three-member committee shall
2 apply the same criteria as that specified for elementary students in section
3 15.1-29-06, except that subsection 2 of section 15.1-29-06 does not apply to
4 an appeal for out-of-state attendance and payment of tuition. Notwithstanding
5 the provisions of this section, if a student's school district of residence does
6 not provide for the education of kindergarten students, the district may not pay
7 tuition for a kindergarten student to attend school in a bordering state.
- 8 d. Any decision by the three-member committee regarding the payment of tuition
9 for high school, elementary, or kindergarten students may be appealed by the
10 school board or by the student's parent to the state board of public school
11 education. A decision by the state board is final.
- 12 3. a. The superintendent of public instruction shall forward all per student and
13 transportation aid payments for a student attending an out-of-state school to
14 the student's school district of residence.
- 15 b. The student's district of residence may reduce any tuition payment it must
16 make to an out-of-state school by an amount commensurate with the tuition
17 costs the district would be entitled to receive as compensation if a student
18 from the out-of-state district enrolled in its school.
- 19 c. Transportation payments for a student attending school in a bordering state
20 must be determined as provided in section 15.1-27-30.
- 21 4. Nothing in this section requires that a school district of residence provide student
22 transportation or payments in lieu of transportation for students attending
23 out-of-state schools.

NOTE: Present Section 15-40.2-09.

15.1-29-02. Education of students in bordering states - Reciprocal contract.

- 24 1. The superintendent of public instruction shall pursue a reciprocal contract with the
25 education agency of each bordering state. The contract must address the cost of
26 educating students in the public schools or institutions of the bordering state.
- 27 2. A school district may comply with the terms of the superintendent's reciprocal
28 contract or, upon providing notice to the superintendent of public instruction, may
29 contract with a school district in a bordering state for the education of students. A
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contract between school districts supersedes the terms of the superintendent's reciprocal contract. A contract between school districts must provide for the payment of tuition at an agreed-upon amount. The amount of tuition payable per student may not exceed the amount set by the superintendent's reciprocal contract nor may it be less than the per student payment plus tuition apportionment in the North Dakota school district.

3. For purposes of per student payments and tuition apportionment payments, a student who attends school in a bordering state under a contract provided for by this section is deemed to be in attendance in the student's school district of residence. The student's school district of residence is liable to the school district of the bordering state for payments as provided in the contract.
4. If the education agency of a bordering state is not authorized to or refuses to enter into a reciprocal contract with the superintendent of public instruction, a school district in this state may enter into its own contract with a school district in a bordering state for the education of students. A school district in this state may not agree to accept students from a bordering state unless the tuition payable equals or exceeds the per student payment plus the tuition apportionment payment that the district would have received from this state for a student in the same grade if its student had been attending school in the bordering state.

NOTE: Present Section 15-40.2-10.

15.1-29-03. Education of students in other districts - Payment of tuition.

1. The board of a school district may send its students to another district or to an accredited institution if doing so is in the best interest of all affected parties. In these instances, the board may pay tuition for the students. The board may arrange, and when petitioned to do so by a majority of the district's qualified electors shall arrange, with other boards or with other institutions to send students to the other districts or institutions and to pay for their tuition and transportation.
2. If a district does not provide educational services to an entire grade level, the students in that grade level may attend a public school of their choice outside their district of residence without going through the procedures outlined in section 15.1-29-05. The school district of residence shall pay tuition to the admitting

district. For purposes of determining whether educational services are provided to an entire grade level, districts cooperating with each other in the joint provision of educational services under a plan approved by the superintendent of public instruction are considered to be a single district.

NOTE: Present Section 15-40.2-01. Present Section 15-40.2-01(1) provides that a school board may send its students to another school district or to an accredited institution if "because of shorter distances and other conveniences, it is in the best interests of the school district to do so." The 1997-98 interim Education Services Committee indicated that, as a policy matter, it would be appropriate to take into account the interests of other parties as well, particularly the students. The 1997-98 interim Education Services Committee therefore directed that the rewrite utilize phraseology regarding the best interests of all affected parties. The suggested change has been maintained, pending its consideration by the 1999-2000 interim Education Services Committee.

15.1-29-04. Payment of tuition by sending districts - Interest on late payments. If

a school board approves the payment of tuition for a student attending school in another district or if a district is required to make tuition payments under the provisions of this chapter, the sending district shall pay at least fifty percent of the annual tuition charge to the admitting district at the end of each semester of attendance. If payment is not received by the admitting district within thirty days after the end of any semester for which payment is due, simple interest at the rate of six percent per annum accrues to any amount due.

NOTE: Present Section 15-40.2-13. The committee might wish to determine whether the reference to "the end of each semester" is sufficiently clear. The committee might also wish to determine whether the six percent interest rate is appropriate.

15.1-29-05. Payment of tuition - Petition by parent. A student's parent may petition

the board of the student's school district of residence for the payment of tuition in order that the student can attend another school district. Within sixty days after receiving the petition, the board shall meet with the student's parent and render a decision regarding the payment of tuition. If the board does not render a contrary decision within the sixty-day period, the petition is deemed approved. If the petition is approved, the board shall pay the tuition charges. If the petition is denied, the student's parent may file an appeal with the county superintendent of schools.

NOTE: Present Section 15-40.2-05. Present Section 15-40.2-05 consists of several concepts. These have been separated into several sections in the rewrite. The committee might wish to determine if it is still appropriate for a denied petition to be appealed to the county superintendent. (See appeal process in Section 15.1-29-06.)

15.1-29-06. Payment of tuition - Appeal - Withholding of state payments.

- 1 1. a. Within fifteen days after receipt of an appeal filed under section 15.1-29-05,
2 the county superintendent of schools shall convene a three-member
3 committee consisting of the county superintendent, the state's attorney, and
4 one member appointed by the board of county commissioners for a term of
5 three years. The committee shall consult with the boards of the affected
6 districts and with the student's parent. The committee shall schedule a
7 hearing, giving due notice to each affected board and to the student's parent.
8 The committee shall conduct the hearing in a manner that allows all parties to
9 present arguments and responses. The committee shall base its decision
10 regarding the payment of tuition on the grade in which the student is enrolled.
11 b. If the student is or during the following school year will be enrolled in any
12 grade from nine through twelve and the committee finds that the attendance
13 of the student is necessitated by shorter distances, previous attendance in
14 another high school, inadequacy of curriculum considering the student's
15 educational needs, or extreme hardship for the student or the student's family,
16 the committee shall approve the application and the payment of tuition by the
17 student's school district of residence, thereby obligating the district of
18 residence to pay the tuition. The committee's directive regarding the payment
19 of tuition may be for any fixed number of school years, up to the completion of
20 the student's high school education. The decision of the committee may be
21 appealed to the state board of public school education. A decision by the
22 state board is final.
23 c. If the student is or during the following school year will be enrolled in any
24 grade from one through eight and the committee finds that the attendance of
25 the student is necessitated by shorter distances or extreme hardship for the
26 student or the student's family, the committee shall approve the application
27 and the payment of tuition by the student's district of residence, thereby
28 obligating the district of residence to pay the tuition. The committee's
29 directive regarding the payment of tuition is limited to one school year. The
30 student's parent may make subsequent applications for the payment of tuition.
31 The decision of the committee is final and is not subject to appeal.

2. If the student is or during the following school year will be enrolled in kindergarten, the board of the student's school district of residence may pay tuition to the receiving district. The board's decision with respect to a kindergarten student is not appealable. If the board of the student's district of residence does not pay the tuition to the admitting district, the student's parent may pay the tuition to the admitting district under the provisions of section 15.1-29-10.
3. If twenty-five percent or more of the taxable valuation of a student's school district of residence is situated in another county, the committee established under subsection 1 must consist of the county superintendent of schools from the county in which the administrative headquarters of the student's school district is located, the county superintendent of schools from any county in which twenty-five percent or more of the school district's taxable valuation is located, the state's attorney, and an individual appointed by the board of county commissioners for a term of three years. The concurrence of a majority of the quorum of the joint committee is necessary to render a decision regarding the payment of tuition.
4. If the student's school district of residence does not comply with the decision requiring that tuition charges be paid, the board of the admitting district shall notify the county superintendent of schools for the county of the student's residence and the superintendent of public instruction. Upon verification by the county superintendent of schools that tuition payments are due the admitting district and are unpaid, the superintendent of public instruction shall withhold all state payments to the student's school district of residence until any tuition due has been fully paid.
5. A school district of residence may provide transportation to a student for whom tuition is paid under this section. If a school district of residence does not provide transportation to the student, it may be provided by the admitting district and the admitting district is then entitled to state payments for the transportation of the student.

NOTE: Present Section 15-40.2-05.

Subsection 4 provides that if a student's school district of residence does not pay the required tuition charges, the board of the admitting district shall notify the county superintendent and the superintendent of public instruction. The county superintendent

is then to verify that tuition payments are due and upon that verification, the superintendent is to withhold all state payments until the tuition is paid. The committee might wish to consider whether verification by the county superintendent is still an appropriate step.

A similar situation is presented in Section 15.1-29-13(6). That provision states that "upon verification ... the superintendent shall withhold" the payments.

15.1-29-07. Payment of tuition by parent - Content of tuition contract.

1. If the board of a student's school district of residence refuses to pay the tuition for the student to attend school in another district and if the committee established under section 15.1-29-06 denies the petition on appeal, the student's parent may pay the tuition.
2. If the parent chooses to pay the tuition, the parent shall:
 - a. Submit at least fifty percent of the total amount due on the day of enrollment; and
 - b. Provide the board of the admitting district with a written contract agreeing to pay any remaining balance on or before the first day of the second semester.

NOTE: Present Section 15-40.2-06. As with Section 15.1-29-05, the committee might wish to examine the reference to the "first day of the second semester" for clarity and consistency.

15.1-29-08. Payment of tuition by federal government. An admitting district may accept payments under title 1 of Public Law No. 81-874 [64 Stat. 1100; 20 U.S.C. 236 et seq.] as tuition for a nonresident student if:

1. The student's parent is employed on an installation owned by the federal government;
2. The student's parent resides on an installation owned by the federal government; and
3. The boards of the student's school district of residence and the admitting district agree to accept the payments in lieu of other tuition for the nonresident student.

NOTE: Present Section 15-40.2-07.

15.1-29-09. Tuition contracts - Agreement with federal officials. A school board may contract with federal officials for the education of students in a federal school.

NOTE: Present Section 15-40.2-11. Present Section 15-40.2-11 provides that the contracts "may be in the form of tuition charges mutually agreed upon, the sharing of education operational costs and facilities, or any other type of contract which will be

agreeable to the school district." Because the proposed section is all inclusive, the wording regarding the form of the contracts was omitted.

1 **15.1-29-10. Admission of students - Conditions.** The board of a school district shall
2 admit students from other districts to its schools if:

- 3 1. The admission does not create overcrowding; and
- 4 2. a. The board of the sending district has entered into an agreement with the
5 board of the admitting district regarding the students' attendance;
- 6 b. Tuition will be paid by the parents; or
- 7 c. The grade level required by the students is not offered by the sending district.

NOTE: Present Section 15-40.2-02.

8 **15.1-29-11. Tuition payments - Determination.**

- 9 1. Except as provided in section 15.1-29-12, a school district sending a student to
10 another district for purposes of education shall pay the full cost of education
11 incurred by the admitting district.
- 12 2. The admitting district shall determine its cost of education on the basis of its
13 average daily membership. The determination must include annual expenditures
14 from the general fund and annual educational expenditures from all special funds,
15 provided that only those expenditures permitted in determining the educational cost
16 per student in section 15.1-27-04 may be included in determining the admitting
17 district's current operating expenses.
- 18 3. The admitting district shall add to its current operating expenses for all students,
19 other than special education students for whom the superintendent of public
20 instruction shall determine a capital outlay fair rental charge, the following:
 - 21 a. The total of all school districts' annual expenditures from sinking and interest
22 funds; and
 - 23 b. The total of all school districts' annual tax receipts to the building funds,
24 including any amounts expended from school districts' general funds for
25 capital outlay.
- 26 4. The admitting district shall divide the total arrived at under subsection 3 by the
27 average daily membership of this state.
- 28 5. The admitting district shall subtract the following from the amount arrived at under
29 subsection 4 for each individual student:

- 1 a. The weighted per student payment received by the admitting district, less any
- 2 deductions applied under section 15.1-27-06; and
- 3 b. Any credit for taxes paid to the admitting district by the student's parent.
- 4 6. The amount remaining is the tuition charge for the individual student.
- 5 7. If the student's school district of residence and the student's parent are both paying
- 6 tuition, the credit allowed under subdivision b of subsection 5 for taxes paid to the
- 7 admitting district must be proportionately credited to the student's district of
- 8 residence and the student's parent.
- 9 8. Nothing in this chapter affects the right of a school board to charge and collect
- 10 tuition from students who are not residents of this state, in accordance with section
- 11 15.1-29-02.

NOTE: Present Section 15-40.2-03.

12 **15.1-29-12. Tuition payments - Nonresident students.**

- 13 1. a. Except as provided in this subsection, the board of a school district that
- 14 admits a nonresident student shall charge and collect tuition for the student.
- 15 Either the student's district of residence shall pay the tuition to the admitting
- 16 district in accordance with section 15.1-29-11 or the student's parent shall pay
- 17 the tuition to the admitting district in accordance with section 15.1-29-07.
- 18 b. A board may charge tuition for nonresident students enrolled in an approved
- 19 alternative education program.
- 20 c. Except as otherwise provided, if a school district fails to charge and collect
- 21 tuition for a nonresident student, the districts shall forfeit any per student
- 22 payment and transportation aid otherwise payable for the nonresident student.
- 23 2. a. The board of a school district may admit a nonresident student from another
- 24 district in this state offering the same grade level as that in which the student
- 25 is enrolled without a charge and collection of tuition if the sending and
- 26 admitting districts have entered into a written contract regarding the student's
- 27 admission.
- 28 b. For purposes of determining whether the same grade level is offered, two or
- 29 more school districts cooperating with each other for the joint provision of

educational services under a plan approved by the superintendent of public instruction must be considered to be a single district.

c. The contract must specify whether transportation is to be provided and, if so, by which district. If a school district of residence does not provide transportation to the student, it may be provided by the admitting district and the admitting district is then entitled to state payments for the transportation of the student.

d. A contract is not necessary if the nonresident student is enrolled in an approved alternative education program for which no tuition is charged.

e. A school district may admit a nonresident student described in section 15.1-31-07 from another school district in this state without a charge and collection of tuition and without a written agreement.

3. A school district may not charge or collect from a nonresident student, the student's parent, or the student's district of residence any fees or charges not otherwise assessed to all resident students.

4. For purposes of this section and all sections relating to open enrollment, the member districts of a consortium must be treated as a single school district.

NOTE: Present Section 15-40.2-04. Section 15.1-31-07 relates to a student who, as the result of a school district dissolution, lives in a district other than the one the student chooses to attend.

15.1-29-13. Child placement for noneducational purposes - Residency

determination - Payment of tuition.

1. For purposes of applying this chapter, a child's school district of residence is the district in which the child resides:

a. At the time an order of a state court, tribal court, or juvenile supervisor requires the child to stay for a prescribed period at a state-licensed foster home or at a state-licensed child care home or facility;

b. At the time of placement for a prescribed period by a county or state social service agency at a state-licensed foster home or at a state-licensed child care home or facility, with the consent of the child's parent or guardian;

c. At the time of placement to or from a state-operated institution; or

- 1 d. At the time of a voluntary admission to a state-licensed child care home or
2 facility or to a state-operated institution.
- 3 2. The child's school district of residence is liable for:
4 a. Tuition upon claim of an admitting district; and
5 b. Tutoring services upon claim of an admitting facility, provided that the tutoring
6 services are delivered by a licensed and qualified teacher according to rules
7 established by the superintendent of public instruction.
- 8 3. If the child's parent was a resident of the school district at the time of placement
9 under subsection 1 but the parent subsequently moves to another school district
10 within North Dakota, any tuition due the admitting district must be paid by the
11 parent's district of residence.
- 12 4. If the child's parent has moved to another state or if parental rights have been
13 terminated, any tuition due the admitting district must be paid by the state from
14 funds appropriated by the legislative assembly for per student payments and
15 transportation aid.
- 16 5. If the child is voluntarily admitted to a state-licensed child care home or facility or to
17 a state-operated institution, the determination of tuition is subject to an appeal filed
18 with the county superintendent of schools. Within fifteen days, the three-member
19 committee established under section 15.1-29-06 shall consult with the boards of
20 the affected school districts and with the child's parent and render a decision
21 regarding responsibility for the payment of tuition.
- 22 6. If the child's district of residence does not pay the required tuition, the admitting
23 district or facility shall notify the superintendent of public instruction. Upon
24 verification that tuition payments are due and unpaid, the superintendent shall
25 withhold an amount equal to the unpaid tuition from per student payments and
26 transportation aid to the child's school district of residence until the tuition due has
27 been fully paid.
- 28 7. An amount equal to the state average per student elementary or high school cost,
29 depending on the student's grade of enrollment, is payable to the admitting district
30 or facility as part of the cost of educating the student for the school year. The
31 payment may not exceed the actual per student cost incurred by the admitting

1 district or facility. The remainder of the actual cost of educating the student not
2 covered by other payments or credits must be paid by the state, within the limits of
3 legislative appropriations, from funds appropriated for special education in the case
4 of a student with disabilities or from funds appropriated for per student payments
5 and transportation aid in all other cases.

6 8. If a child with disabilities placed in accordance with this section reaches age
7 eighteen and continues to receive special education and related services, the
8 child's school district of residence is deemed to be the same as that of the child's
9 parent until the special education services are concluded.

10 9. a. The placing agency shall provide written notice by registered mail of a
11 placement made under court order or in an emergency to the superintendent
12 of the child's school district of residence and to the superintendent of the
13 child's admitting district within five working days after the placement.

14 b. Except as provided in subdivision a, the placing agency shall provide written
15 notice by registered mail of a placement to the superintendent of the child's
16 school district of residence and the superintendent of the child's admitting
17 district at least ten working days before the placement.

18 c. The placing agency shall afford the child's district of residence reasonable
19 opportunity to participate in permanency planning for the child.

20 10. Notwithstanding this section, educational services provided to a child by the youth
21 correctional center are not subject to the payment of tuition by either the student's
22 school district of residence or the superintendent of public instruction.

NOTE: Present Section 15-40.2-08.